

REMARKS/ARGUMENT**Regarding the Claims in General:**

Claims 1-3, 5-7, 11-13, 15-17, 19, 24-26, and 29-32 remain pending. Claims 1, 5, 6, 11, 12, 15, 19, and 24-26 have been amended to better highlight the distinguishing features of the invention.

No new matter has been introduced by any of the amendments.

Claims 4, 8-10, 14, 18, 20-23, and 27-28 have been canceled without prejudice.

Regarding the Prior Art Rejections:

In the outstanding Office Action, claims 1, 4, 5, 7-11, 15, 16, 19, 20-25, 28, and 32 were rejected under 35 U.S.C. §102(b) as being anticipated by Tanaka U.S. Patent 5,621,218 (Tanaka), and claims 2, 3, 6, 12-14, 26, 27, and 29-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tanaka. In addition, claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tanaka in view of Svetkoff et al. U.S. Patent 6,181,425 (Svetkoff). Reconsideration and withdrawal of the rejections are respectfully requested, in view of the amendments herein.

Method claim 1, as amended, incorporates the features of canceled claim 4. It thus includes the following limitations:

projecting illumination lighting onto a predetermined portion of the wire loop and determining a location of an approximated highest point on said portion of the wire loop based upon characteristics of light reflected from the said location;

positioning a height gauge device over the location of the approximated highest point on the wire loop;

projecting incident light from the height gauge device for the approximated highest point . . .

This two-step approach, which is described at page 7, line 11 to page 8, line 29, and illustrated in Figs. 4a and 4b of the specification, is entirely different from anything disclosed, taught or suggested in Tanaka. Using this method, the highest point on the wire loop is first approximated by illuminating a portion of the wire loop. This illumination is not done with the height gauge device, which can only illuminate a small point on the wire loop. Thereafter, the height of the wire loop can be measured

accurately by determining the height of just one point of the wire loop, which is the said highest point on the wire loop determined by way of the aforesaid approximation.

On the other hand, in Tanaka, the scanning mechanism 308 (see Fig. 3) is basically a linear one that moves the optical head only along one axis. The height of only one point on each wire loop is measured. This may or may not be the highest point, and if the highest points of different wires do not lie on a straight line, the point measured on each wire may not be the highest point, such that the height measured is not the true wire height.

Tanaka therefore does not disclose, teach, or suggest the claimed method, and does not disclose, teach, or suggest apparatus which could practice the claimed method. The rejection of claim 1, and dependent claims 5 and 7, should accordingly be withdrawn.

Claim 11, which has been rewritten in independent form to incorporate the features of original claims 1 and 7, and now canceled claim 9, is also not anticipated by Tanaka. As amended, claim 11 recites:

moving the height gauge device relative to the wire loop
along a scanning path such that incident light projected
from the height gauge device intersects a length of each of
a plurality of wire loops;

wherein the scanning path intersects the length of each wire
loop at a plurality of positions.

Tanaka does not anticipate the limitations of claim 11 as it does not reveal a scanning path that intersects each wire loop at a plurality of positions. As noted above, the scanning mechanism 308 of Tanaka only scans along one line, although it can reciprocate in opposite directions along the same line (see column 7, lines 3-8). Accordingly, its scanning path is inherently unable to intersect each wire loop at a plurality of positions.

Again, as in the case of claim 1, Tanaka does not disclose, teach, or suggest the claimed method, and does not disclose, teach, or suggest apparatus which could practice the claimed method. The rejection of claim 11 should accordingly also be withdrawn.

With respect to both claims 1 and 11, it appears that the Examiner has taken the position that Tanaka's system inherently performs the claimed method, but does not provide evidence or scientific reasoning to establish the reasonableness of his belief that

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the claimed method can in fact inherently be practiced by the reference system, as required by *Ex parte Skinner*, 2 U.S.P.Q. 2d 1788, 1789 (BdPatApp&Int 1986). If the rejections of these claims is adhered to, the Examiner is respectfully requested to demonstrate a scientific basis for his assertion of inherency.

Claim 15 has been amended to incorporate the features of now canceled claim 18, and claim 24 has been amended to incorporate the features of original claim 15, and now canceled claim 22. Claim 15 recites an illumination lighting system that is separate from the height gauge device and claim 24 recites a positioning device configured to move the height gauge along a scanning path to intersect each wire loop at a plurality of positions (see above). These features render claims 15 and 24 patentable over Tanaka for the reasons discussed above in connection with claims 1 and 11. The rejection of these claims, and of dependent claims 16, 19, 25, and 32 should also be withdrawn.

With respect to the rejection of claims 17 and 18, Svetkoff does not remedy the basic deficiencies in Tanaka. The concepts recited in claims 1, 11, 15, and 24 as discussed above, are still missing. Likewise, with respect to claims 2, 3, 6, 12-14, 26, 27, and 29-31, even if the modifications of Tanaka proposed by the Examiner are treated as obvious (an idea with which applicants do not concur) and are adopted, the basic features of claims 1, 11, 15, and 24 are still missing.

In view of the foregoing, favorable reconsideration and allowance of this application are respectfully solicited.

I hereby certify that this correspondence is being transmitted by facsimile to (571) 273-8300 addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below

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